CANUCK LAW
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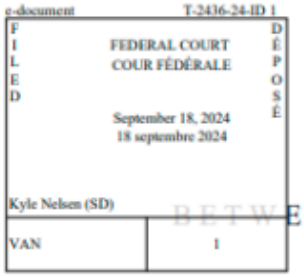
FEBRUARY 5, 2025 BY RONNIE

"Military Propaganda" Lawsuit Thrown Out For Mootness


e-document T-2436-24-ID 1
FILED / DÉPOSÉ
FEDERAL COURT
COUR FÉDÉRALE
September 18, 2024
18 septembre 2024
Kyle Nelsen (SD)
VAN 1

Court File No.

FEDERAL COURT

BETWEEN:

EMMA BRIANT

APPLICANT

- and -

ATTORNEY GENERAL OF CANADA

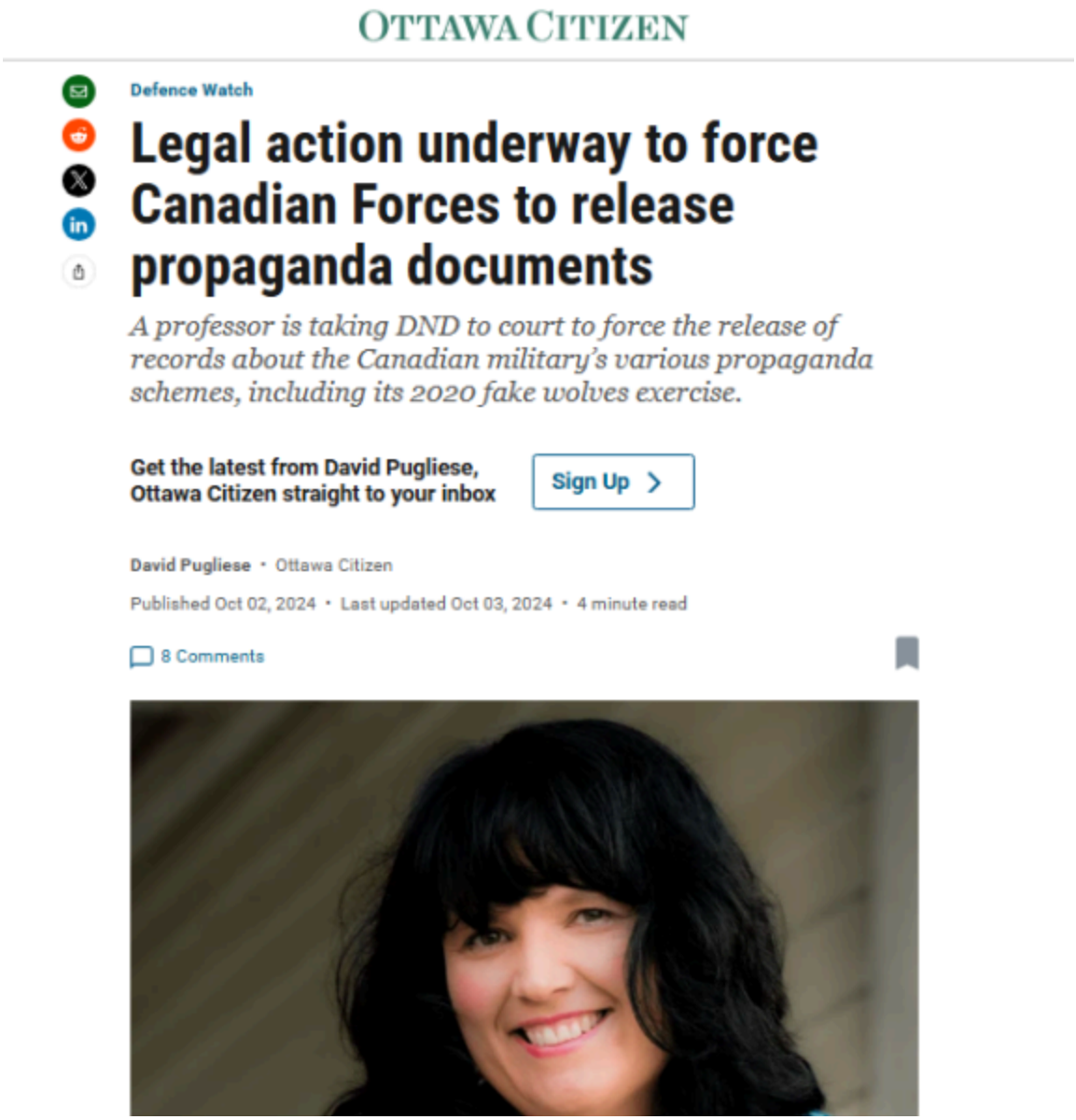
RESPONDENT

NOTICE OF APPLICATION

Application for judicial review under sections 41 and 44 of the *Privacy Act*, RSC 1985, c P-21 and section 18.1 of the *Federal Courts Act*, RSC 1985, c F-7

TO THE RESPONDENT:

A PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the applicant. The relief claimed by the applicant appears below.



OTTAWA CITIZEN

Defence Watch

Legal action underway to force Canadian Forces to release propaganda documents

A professor is taking DND to court to force the release of records about the Canadian military's various propaganda schemes, including its 2020 fake wolves exercise.

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David Pugliese • Ottawa Citizen

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8 Comments

A high profile lawsuit filed in Federal Court last September has fizzled out. Emma Briant, an "expert in information warfare and propaganda" sued the Canadian Government for failing to adequately respond to a freedom of information request. She wanted to know what, if anything, the Canadian Forces/Department of National Defence had done with her work. She's a professor with Monash University in Australia, with a long list of publications.

In her Notice of Application, Briant describes the frustration it has been in trying to get anything at all. It was delayed far longer than what was reasonable.

Specifically, she sought this from Canada:

> I am requesting records that ***contain any references to myself (Dr. Emma Briant), my work or my media engagement, or discussions and analysis of it and responses to it,***

> ***held by the public affairs branch of the Canadian Forces/Department of National Defence in Ottawa from the period of 24th June 2020 to 30th October 2020***. This should include the details of whom any such data was shared with or received from and who holds the data. In case it helps your inquiry, I was formerly Associate Researcher at Bard College in New York State, US currently Associate Professor at Monash University in Melbourne, Australia.

Considering the way this story had been hyped up by media outlets, the conclusion was disappointing. There was no smoking gun to be released.

The released records primarily relate to an article about wolves on the loose. Briant was not the main focus of the publication, though was mentioned in it. Clearly, the story had been shared among the military, but there's no indication given here that her work was relied on.

*Last year **Emma Briant, a research associate at Bard College in the U.S. who specializes in examining military propaganda**, revealed the Canadian Forces spent more than $1 million in training its public affairs officers on behaviour modification techniques. Those techniques were of the same sort used by the parent firm of Cambridge Analytica, the company implicated in a 2016 data-mining scandal to help Donald Trump's election campaign.*

The records show that the military was aware that she had reported about spending related to behaviour modification.

U.S. Government Aware Of Ottawa Citizen Story

From: Sullivan Capt KG@CDLS(W) Public Affairs@Washington, US
Sent: October 15, 2020 1:25 PM
To: Doucette LCol PM@CDLS(W) Public Affairs@Washington, US <PAUL.DOUCETTE3@forces.gc.ca>
Subject: Media Query: Forged Letter in Nova Scotia

Sir,

We received this request from and an expert in Russian influence and information warfare, via a direct message on Twitter:

https://ottawacitizen.com/news/national/defence-watch/forged-letter-warning-about-wolves-on-the-loose-part-of-canadian-forces-propaganda-campaign-that-went-awry

Saw this story being plugged by some people who do disinfo stuff — but it stinks. The guy who wrote it often writes "Actually Russia is right, Latvians are Nazis" stuff, and has attacked Canadian forces in the EFP in Latvia for working with said "Nazis".

Story seems short on details but relies heavily on judgements of people who have credibility with some in the community (Emma Briant) to offer broad condemnations of Canadian forces.

From what I can see, this is a pretty normal training op, probably something got leaked that looks bad but it was never intended to targeted locals. But guessing based on slight info.

Anyway, if you know anymore about this or could point me to someone I could ask,

I plan to send the query to the MRO for further action. I'll be sure to copy you, VCDS PA, and SJS PA.

Please advise of any concerns.

Kirk

On October 15th, 2020, the United States reached out to the Canadian Forces about the above publication. The response back was that it was normal training stuff, although it could "look bad".

Of course, there were several pages that were redacted under section 19(1)(b) of the Privacy Act. This is the requirement to refuse to disclose material "obtained on confidence" from an "international organization of states or an institution thereof".

However, Briant had all of this prior to filing the Application. The response from Ottawa wasn't surprising.

Attorney General Brings "Mootness" Motion

The Government brought a Motion to throw out the case for mootness, meaning there was no practical reason to continue the proceedings. The rationale was that Briant already got her records, even if it was late, and even if they weren't what she was looking for.

Procedurally, they also took issue with what laws were used to bring the Application. Lack of disclosure was already covered by s.41 of the Privacy Act, so invoking s.18(1) and (3) of the Federal Courts Act was unnecessary.

In her Responding Motion Record, Briant includes an Affidavit with attachments showing her various attempts to get those records. Exhibit "G" is what she did finally receive, and it consists of media stories being shared. She said it wasn't responsive, and implied more was being withheld. She did concede the case was now moot, but asked the Court for directions on costs.

Naturally, the Government opposed the request for costs. It was stated that Briant had already gotten her records, so bringing the Application was entirely unnecessary.

Eventually, the Application was struck without the ability to amend. However, Briant did get some of the money back from the Government. The extra effort involved to get any sort of release likely resulted in this happening.

1) The Notice of Application is properly treated as being solely an application pursuant to section 41 of the Privacy Act;
2) The Respondent's motion to strike the Notice of Application is granted;
3) The Notice of Application is struck out with leave to amend;
4) The application is dismissed; and
5) The Respondent shall pay to the Applicant her costs of the application, assessed in accordance with column III of Tariff B of Rules.

The dollar amount of the cost award doesn't appear to be made public.

Timeline Of Major Events In Case

September 17th, 2024: Notice of Application filed.

September 25th, 2024: Government files Notice of Appearance.

October 2nd, 2024: Applicant files Affidavit of Service.

October 2nd, 2024: Consent is filed to accept service electronically.

October 30th, 2024: Attorney General files Affidavit of Service.

November 19th, 2024: Attorney General brings Motion to strike for mootness.

December 1st, 2024: Applicant brings a Motion Record in response.

December 8th, 2024: Attorney General files Reply Submissions.

January 7th, 2025: Prothonotary Ring rules on the Motion (but there appear to be multiple Orders involved).

Note: All of the dates listed can be confirmed by searching the respective cases on the Federal Court website. It keeps a detailed listing of all significant events.

It would be nice to know a lot more about what the Canadian military says and does in terms of "using propaganda" and "behaviour modification techniques". Hopefully, it will come out. But this case wasn't it.

(1) T-2436-24 Briant Notice Of Application
(2) T-2436-24 Briant Electronic Service
(3) T-2436-24 Briant Motion Record Mootness
(4) T-2436-24 Briant Applicant Responding Motion Record Mootness
(5) T-2436-24 Briant Exhibit G Affidavit
(6) T-2436-24 Briant Reply Submissions
(7) T-2436-24 Briant Order From Prothonotary Ring
(8) https://ottawacitizen.com/news/national/defence-watch/legal-action-under-way-to-force-canadian-forces-to-release-propaganda-documents

CANADA, CANADIAN DECISIONS, FOI REQUEST, MILITARY/POLICE, PRIVACY, PROCEDURAL, PROPAGANDA RESEARCH, SUBVERSION

3 Replies to ““Military Propaganda” Lawsuit Thrown Out For Mootness”

Chuck Black

FEBRUARY 5, 2025 AT 11:37 AM

I’m open, but while I appreciate the work you do, I find it hard to believe that so many of the court cases you’ve tracked over the last few years are either “bad beyond belief” or “moot.”

I’d suggest that Canadian courts, under pressure from the Federal government, have begun looking at access to information requests and court cases relating to government overreach in a different way from the way the statutes, and the common law surrounding those statutes, had originally intended.

I discussed one of the ways in the June 20th, 2024 Freedom Forum post, “More on the Concept of Judicial Notice in Canadian Courts,” at https://chuckblack.substack.com/p/more-on-the-concept-of-judicial-notice.

That post noted that the legal concept of “judicial notice” has rigged Canadian court cases to favor government policy, no matter what the facts might be.

According to the post, “over the last few years, the concept of “judicial notice,” has been twisted by the courts to include highly controversial political concepts such as ‘climate change,’ ‘systemic racism,’ and ‘forth wave feminism,’ especially when bolstered by official government statements which suggest, to the courts at least, that ‘the matter is so notorious that it will not be disputed.’”

For all its worth, law is about more than just reading the judgements and tracking the paperwork.

ian bell

FEBRUARY 6, 2025 AT 1:55 AM

@ Chuck Black – you hit the nail on the head with your two points:

1) “I find it hard to believe that so many of the court cases you’ve tracked over the last few years are either “bad beyond belief” or “moot.”

2) ” law is about more than just reading the judgements and tracking the paperwork.”

Ronnie needs to look beyond the judgements and start looking at the actual merits of the cases. There appear to be many legitimate grievances (e.g. veterans) that are being swept under the rug by rite of “law-fare” and the question is why is Ronnie ignoring this elephant in the room?

Reparasjon av MacBook i Norge

FEBRUARY 7, 2025 AT 7:55 AM

This was exactly what I needed to read right now, thanks!